D.B.CIVIL WRIT PETITION No.3342/2006
Bhawani Shankar Sharma v. State of Rajasthan & ors.

Date of order : 17.07.2006

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri M.S.Bhati for the petitioner

This writ petition has been filed as a public interest litigation seeking directions, inter alia, to prohibit unauthorised manufacture and sale of illicit liquor.

The case of the petitioner is that on 24.7.2005 an FIR was lodged and statement of one Mangi Lal regarding unnatural death of two persons on account of consuming illicit liquor was recorded. The police submitted charge-sheet against Bhajna Ram, Mahendra Nath and Om Prakash while keeping the investigation pending against Mahendra Rajput in terms of section 173 (8) of the Criminal Procedure Code. It is said that in course of investigation, statement of Mahendra Nath was recorded by the police in which he narrated facts about purchase of spirit from Mahendra Rajput and manufacture of illicit liquor which was allegedly consumed by Mangi Lal and Panna Lal. It is said that the Divisional Commissioner also made inquiry into the matter and on the basis of the preliminary inquiry, a regular inquiry under rule 16 of the CCA rules has been initiated against the concerned employees of the Excise Department. In the above facts

the petitioner has come to this Court seeking direction for prohibition on manufacture/sale of unauthorised liquor.

The grievance projected by the petitioner is administrative in nature. It is needless to point out that liquor can be sold only under valid licence. If a person does not have licence, manufacturing and sale etc. by him would be per se illegal. And concerned authorities of the Government are required to take necessary action – preventive as well as punitive – against him. The same is true of manufacture and sale of spurious and illicit liquor. If despite implimentation of the excise laws, spurious and illicit liquor is stealthily sold, it is for the government and its officials to take appropriate measures. Direction as sought by the petitioner for total prohibition may be futile and difficult to implement. We thus find no ground to interfere in the writ petition which is accordingly dismissed.

(MOHAMMAD RAFIQ),J. (S.N.JHA), C.J.

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